

2021 - 2023 REQUEST FOR SPECIAL LANGUAGE IN APPROPRIATION ACT

0710 DHS - Director's Office

ACT#: 0064

SECTION#: 011

CURRENT SPECIAL LANGUAGE (WITH AGENCY REQUEST)

EXECUTIVE RECOMMENDATION

~~DIRECTOR'S~~ SECRETARY'S OFFICE/OFFICE OF CHIEF COUNSEL - PURCHASE OF EVIDENCE. Upon approval by the Chief Fiscal Officer of the State, the Chief Counsel for the Department of Human Services may transfer an amount up to but not to exceed \$12,000 and deposit same in a bank account for the purpose of purchasing evidence in the course of investigating the illegal use of food stamps/Electronic Benefit Transfer (EBT) cards. The funds so transferred shall be subject to accounting in a manner substantially similar to that employed by the Arkansas State Police for such transactions; provided however, that information tending to identify participants in such transactions shall be exempt from the Arkansas Freedom of Information Act.

The provisions of this section shall be in effect only from July 1, ~~2020~~ 2021 through June 30, ~~2021~~ 2022.

AGENCY REQUEST

2021 - 2023 REQUEST FOR SPECIAL LANGUAGE IN APPROPRIATION ACT

0710 DHS - Director's Office

ACT#: 0064

SECTION#: 012

CURRENT SPECIAL LANGUAGE (WITH AGENCY REQUEST)

EXECUTIVE RECOMMENDATION

HUMAN SERVICES RENOVATION FUND. Department of Human Services Renovation Fund.

(a) There is established on the books of the Treasurer of State, Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the Department of Human Services Renovation Fund.

(b) This fund shall be used for constructing, acquiring, renovating, maintaining, repairing, and equipping facilities of the Department of Human Services and for paying disallowances by the federal government.

(c) The fund shall consist of:

(1) Federal reimbursement received by the Department of Human Services and deposited in the various fund accounts of the department; and

(2) General revenues transferred from the Division of Youth Services, the Division of Aging, Adult, and Behavioral Health Services, and the Division of Developmental Disabilities Services for the purposes of repairing, renovating, equipping, acquiring and constructing Department of Human Services facilities with an annual maximum of five million dollars (\$5,000,000). The projects for which these transfers are authorized must be projects which were unanticipated during the preceding regular session of the Arkansas General Assembly and must be projects which, if not carried out in the interim period between regular sessions of the Arkansas General Assembly would cause greater harm to the facilities, clients or programs of the Department of Human Services than to wait until the next regular session.

(3) Other non-general revenue funds as may be available within the Department of Human Services that can be used for the purposes of this

AGENCY REQUEST

2021 - 2023 REQUEST FOR SPECIAL LANGUAGE IN APPROPRIATION ACT

0710 DHS - Director's Office

ACT#: 0064

SECTION#: 012

CURRENT SPECIAL LANGUAGE (WITH AGENCY REQUEST)

EXECUTIVE RECOMMENDATION

fund.

(d)(1) At the request of the ~~Director~~ Secretary of the Department of Human Services, and upon certification of the availability of such funds, the Chief Fiscal Officer of the State shall initiate the necessary transfer documents to reflect the transfer on the books of record of the Treasurer of State, the Auditor of State, the Chief Fiscal Officer of the State, and the Department of Human Services.

(2) The ~~Director~~ Secretary of the Department of Human Services shall submit any transfer plan to and must receive approval of the plan from the Chief Fiscal Officer of the State, the Governor and the Arkansas Legislative Council or Joint Budget Committee prior to the effective date of the transfer.

(e) Provided, that any non-general revenue funding that may remain in the fund at the end of any fiscal year shall be carried over into the next fiscal year and all obligated general revenue funding that may remain in the fund at the end of any fiscal year shall be carried over into the next fiscal year to satisfy such legal and contractual obligations that have been entered into prior to the end of the fiscal year.

(f) Determining the amount of funds appropriated to a state agency is the prerogative of the General Assembly and is usually accomplished by delineating specific line items and by identifying the appropriation and funding attached to that line item. The General Assembly has determined that the Department of Human Services could be operated more efficiently if some flexibility is given to that agency. That flexibility is being accomplished by providing transfer authority in subsection (d) of this

2021 - 2023 REQUEST FOR SPECIAL LANGUAGE IN APPROPRIATION ACT

0710 DHS - Director's Office

ACT#: 0064

SECTION#: 012

CURRENT SPECIAL LANGUAGE (WITH AGENCY REQUEST)

EXECUTIVE RECOMMENDATION

section, and since the General Assembly has granted the agency broad powers under the transfer authority concept, it is both necessary and appropriate that the General Assembly maintain oversight of the utilization of the transfer authority by requiring prior approval of the Legislative Council or Joint Budget Committee in the utilization of this transfer authority. Therefore, the requirement of approval by the Legislative Council or Joint Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

The provisions of this section shall be in effect only from July 1, ~~2020~~ 2021 through June 30, ~~2021~~ 2022.

2021 - 2023 REQUEST FOR SPECIAL LANGUAGE IN APPROPRIATION ACT

0710 DHS - Director's Office

ACT#: 0064

SECTION#: 013

CURRENT SPECIAL LANGUAGE (WITH AGENCY REQUEST)

EXECUTIVE RECOMMENDATION

TRANSFER AUTHORITY. The ~~Director~~ Secretary of the Department of Human Services shall have transfer authority provided by the following:

(a) DEPARTMENT OF HUMAN SERVICES RENOVATION FUND. The ~~Director~~ Secretary of the Department of Human Services is authorized to request fund transfers according to the provisions established by Arkansas Code Ann. 19-5-1020, Department of Human Services Renovation Fund, as amended herein; and

(b) MATCH TRANSFER. The ~~Director~~ Secretary of the Department of Human Services, with the approval of the Chief Fiscal Officer of the State, is authorized to effect inter-agency and inter-divisional fund transfers for the purpose of providing the State's matching share for payments made to that Division or Office or its service providers for services eligible for federal reimbursement under programs administered by the Department of Human Services. The Department of Human Services shall report to the Legislative Council or Joint Budget Committee on a quarterly basis all fund transfers made in accordance with the authority granted by this section; and

(c) REALLOCATION OF RESOURCES: (1) The Department of Human Services (DHS) provides hundreds of different services to over 1 million Arkansans. The specific mix of service needs and the funding and staffing required to provide them can vary significantly based on many factors, including natural disasters, changing federal mandates and funding sources, demographic shifts, fluctuating court-ordered services, social trends, and job market variations such as nursing shortages. The impact of these factors through the course of any fiscal year make it very difficult for

AGENCY REQUEST

2021 - 2023 REQUEST FOR SPECIAL LANGUAGE IN APPROPRIATION ACT

0710 DHS - Director's Office

ACT#: 0064

SECTION#: 013

CURRENT SPECIAL LANGUAGE (WITH AGENCY REQUEST)

EXECUTIVE RECOMMENDATION

the Department to accurately predict the exact needs for funding, appropriation and positions in each of its over 100 different appropriations. To ensure that it can respond quickly to changing client needs and make the most effective use of the resources allocated to it, the Department of Human Services shall be authorized to utilize the reallocation of resource authority to make the proper adjustments to the budgets within the Department. Therefore, upon determination by the ~~Director~~ Secretary of the Department of Human Services that a reallocation of resources within the department is necessary for the efficient and effective operation of the department, the director, with approval of the Governor, shall have the authority to request, from the Chief Fiscal Officer of the State, a transfer of positions, appropriations, line item appropriations, and funds within or between existing and newly created divisions, offices, sections, or units of the department. Provided, however, that no transfer of funds or appropriation that provides direct support or matching support for the Arkansas Medicaid Program shall be made to any other fund account or appropriation that does not directly support the Arkansas Medicaid Program. Further, no positions, funds, or appropriation authorized during the budget process for the Division of Children and Family Services' compliance with initiatives established under the Angela R. consent decree shall be transferred to any other division. Nothing in this provision is intended to prevent the one-time transfers of savings in any other program to the Arkansas Medicaid Program, with the exception of the provisions previously cited for the Division of Children and Family Services - Angela R. consent decree. The Division of Developmental Disabilities - Grants to

2021 - 2023 REQUEST FOR SPECIAL LANGUAGE IN APPROPRIATION ACT

0710 DHS - Director's Office

ACT#: 0064

SECTION#: 013

CURRENT SPECIAL LANGUAGE (WITH AGENCY REQUEST)

EXECUTIVE RECOMMENDATION

Community Providers line item of the Developmental Disabilities Services - Grants-in-Aid appropriation may not be decreased. The appropriation, funding, and positions provided for the five Human Development Centers shall remain at a level sufficient to ensure quality care for the Centers' residents. The exemptions provided in this subsection whereby certain DHS Programs and Divisions are protected from appropriation, fund, or position transfers are applicable only to the reallocation or transfer authority granted herein, and not by any reductions which are applicable to all state programs.

The ~~Director~~ Secretary of the Department of Human Services shall submit any requests for transfers to and must receive approval of the requests for transfers from the Chief Fiscal Officer of the State, the Governor, and the Arkansas Legislative Council or Joint Budget Committee prior to the effective date of the transfers. Provided, however, that the Department of Human Services shall be limited to submitting no more than four reallocation of resources transfer requests during any fiscal year. In each Departmental request no single division will request reallocation for more than one purpose as listed in this section. Transfer authority for unforeseen purposes shall further be limited to no more than 5% of the total appropriation, funding, and positions authorized for the Department. Reallocation of resources transfers may include multiple items but shall be limited to the following purposes:

- i) Medicaid Program;
- ii) Facilities and institutions costs, including operational expenses and construction/renovation/equipping expenses;

2021 - 2023 REQUEST FOR SPECIAL LANGUAGE IN APPROPRIATION ACT

0710 DHS - Director's Office

ACT#: 0064

SECTION#: 013

CURRENT SPECIAL LANGUAGE (WITH AGENCY REQUEST)

EXECUTIVE RECOMMENDATION

- iii) Departmental grants and contracts;
- iv) Court ordered settlements and payments;
- v) Payment of administrative expenses, including but not limited to, overtime and other costs of personnel for critical services or functions necessary to carry out the mission of the agency;
- vi) Restructuring efforts as deemed necessary to comply with new and/or unanticipated federal or state mandates; and/or
- vii) Redirecting internal resources, both direct and/or indirect, to meet client needs and services.

Determining the maximum number of employees and the maximum amount of appropriation and general revenue funding for a state agency each fiscal year is the prerogative of the General Assembly. This is usually accomplished by delineating such maximums in the appropriation act(s) for a state agency and the general revenue allocations authorized for each fund and fund account by amendment to the Revenue Stabilization law. Further, the General Assembly has determined that the Department of Human Services may operate more efficiently if some flexibility is provided to the Department of Human Services authorizing broad powers under the Reallocation of Resources provisions herein. Therefore, it is both necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or Joint Budget Committee as provided by this section. The requirement of approval by the Legislative Council or Joint Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction,

2021 - 2023 REQUEST FOR SPECIAL LANGUAGE IN APPROPRIATION ACT

0710 DHS - Director's Office

ACT#: 0064

SECTION#: 013

CURRENT SPECIAL LANGUAGE (WITH AGENCY REQUEST)

EXECUTIVE RECOMMENDATION

this entire section is void.

(2) If it is determined that the requested reallocation of resources transfers should be made, the Chief Fiscal Officer of the State shall then initiate the necessary transfer documents to reflect the transfers upon the fiscal records of the Treasurer of State, the Auditor of State, the Chief Fiscal Officer of the State, and the Department of Human Services. In addition, the Chief Fiscal Officer of the State, together with the Co-Chairpersons of the Legislative Council or Joint Budget Committee, may approve, on an emergency basis, requests for utilization of this Section without prior approval of the Arkansas Legislative Council or Joint Budget Committee, with any such actions reported at the next meeting of the Arkansas Legislative Council or Joint Budget Committee.

The provisions of this section shall be in effect only from July 1, ~~2020~~ 2021 through June 30, ~~2021~~ 2022.

2021 - 2023 REQUEST FOR SPECIAL LANGUAGE IN APPROPRIATION ACT

0710 DHS - Director's Office

ACT#: 0064

SECTION#: 014

CURRENT SPECIAL LANGUAGE (WITH AGENCY REQUEST)

EXECUTIVE RECOMMENDATION

NURSING/DIRECT CARE EDUCATION STIPEND PROGRAM. Special provision for a Nursing/Direct Care Education Stipend Program for the Department of Human Services is hereby authorized to be paid from the State and Federal Funds appropriated in each Division's Act. This program is for eligible nursing students who are attending accredited nursing institutions to become Registered or Licensed Practical Nurses, as well as Certified Nursing Assistants, Residential Care Assistants, Residential Care Technicians, Residential Care Supervisors and Behavioral Health Aides.

The stipend is \$5,000 per person per year. Any student who is awarded and accepts a stipend is under employment commitment to the respective DHS Division and is required to work for that division, in a full-time employee status effective immediately upon graduation. The student employment commitment is equal to the number of years the stipend was awarded and accepted. In the event of Employee/Student default of the employment commitment, the Employee/Student will be considered in breach of contract and repayment of the stipend will be required as specified in the Stipend Contract.

Each division participating in the Education Stipend Program shall determine on an annual basis, the number of student stipends available.

The provisions of this section shall be in effect only from July 1, ~~2020~~ 2021 through June 30, ~~2021~~ 2022.

AGENCY REQUEST

2021 - 2023 REQUEST FOR SPECIAL LANGUAGE IN APPROPRIATION ACT

0710 DHS - Director's Office

ACT#: 0064

SECTION#: 015

CURRENT SPECIAL LANGUAGE (WITH AGENCY REQUEST)

EXECUTIVE RECOMMENDATION

NURSING/DIRECT CARE RECRUITMENT/RETENTION BONUSES. Special provision to provide Nursing/Direct Care Recruitment and Retention Bonuses for the Department of Human Services is hereby authorized to be paid from State and Federal funds appropriated for each respective Division. Nursing/direct care service recruitment/retention bonuses are in addition to the maximum annual amounts provided in the Regular Salaries Section of the respective Division's Act for Registered Nurse, Licensed Practical Nurse, Certified Nursing Assistant, Residential Care Assistant, Residential Care Technician, Residential Care Supervisor and Behavioral Health Aide. New hire nurses must be licensed by the Arkansas State Board of Nursing. The total recruitment/retention bonus payment commitment for eligible nurses shall not exceed \$4,000 per Registered Nurse and \$2,000 per Licensed Practical Nurse and \$1,000 per Certified Nursing Assistant, Residential Care Assistant, Residential Care Technician, Residential Care Supervisor and Behavioral Health Aide.

The lump sum bonus payments and employment commitment to the State will be made in partial payments as follows:

Registered Nurse Classifications

\$1,000 after completing 6 months probationary employment

\$1,500 after completing 1st year employment

\$1,500 after completing 2nd year employment

Licensed Practical Nurse Classifications

\$ 500 after completing 6 months probationary employment

AGENCY REQUEST

2021 - 2023 REQUEST FOR SPECIAL LANGUAGE IN APPROPRIATION ACT

0710 DHS - Director's Office

ACT#: 0064

SECTION#: 015

CURRENT SPECIAL LANGUAGE (WITH AGENCY REQUEST)

EXECUTIVE RECOMMENDATION

\$ 500 after completing 1st year employment
\$1,000 after completing 2nd year employment

Certified Nursing Assistant/Residential Care Assistant/Residential Care
Technician/Residential Care Supervisor/Behavioral Health Aide
Classifications

\$ 500 after completing 6 months probationary employment
\$ 500 after completing 1st year employment

Any qualified person hired and offered bonus payment described herein will forfeit the balance of the payments if he/she voluntarily resigns or is terminated for cause from employment from the Department of Human Services prior to completing the required employment commitment time periods outlined above.

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